
HOUSE BILL No. 1648

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-6-9.

Synopsis: Refund of sales taxes. Provides that a retail merchant may assign a bad debt deduction from the state gross retail tax.

Effective: January 1, 2007 (retroactive); July 1, 2007.

Porter

January 23, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1648

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-6-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) In determining
3 the amount of state gross retail and use taxes which a retail merchant
4 must remit under section 7 of this chapter, the retail merchant shall,
5 subject to subsections (c) and (d), deduct from the retail merchant's
6 gross retail income from retail transactions made during a particular
7 reporting period, an amount equal to the retail merchant's receivables
8 which:
9 (1) resulted from retail transactions in which the retail merchant
10 did not collect the state gross retail or use tax from the purchaser;
11 (2) resulted from retail transactions on which the retail merchant
12 has previously paid the state gross retail or use tax liability to the
13 department; and
14 (3) were written off as an uncollectible debt for federal tax
15 purposes under Section 166 of the Internal Revenue Code during
16 the particular reporting period.
17 (b) If a retail merchant deducts a receivable under subsection (a)



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and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after ~~December 31, 2006~~. As used in this subsection, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section ~~1504~~ of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%);

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

June 30, 2004. The right to a deduction under this section is ~~not~~ assignable to an individual or entity that is not part of the same affiliated group as the assignor: **only if the retail merchant that paid the state gross retail or use tax liability assigns the right to the deduction in writing.**

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

- (1) The deduction does not include interest.
- (2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:
 - (A) financing charges or interest;
 - (B) sales or use taxes charged on the purchase price;
 - (C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;
 - (D) expenses incurred in attempting to collect any debt; and
 - (E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the

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claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

SECTION 2. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]

(a) During the period beginning January 1, 2007, and ending June 30, 2007, subsection (b) applies instead of IC 6-2.5-6-9(c).

(b) This subsection applies only to retail transactions occurring after June 30, 2004. The right to a deduction under IC 6-2.5-6-9 is assignable only if the retail merchant that paid the state gross retail or use tax liability assigns the right to the deduction in writing.

(c) This SECTION expires July 1, 2007.

SECTION 3. An emergency is declared for this act.

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